IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

MACA.No. 1154 of 2007()

OPMV.57/2003 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOTTAYAM
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APPELLANT/ADDL.3RD RESPONDENT IN OP(MV) 57/2003:

NATIONAL INSURANCE COMPNAY LIMITED, DINDIGUL BR.REP.BY BRANCH MANAGER,OFFICE,12A-A, SUB COLLECTOR'S OFFICE RD.,Y.M.R. RATTI,TAMIL NADU PIN-624 001,REP.BY ITS DY.MANAGER,NATIONAL INSURANCE COMPANY, KOCHI REGIONAL OFFICE,P.B.NO. 3235,OMANA BUILDINGS,JEWS STREET,PADMA JN.KOCHI-35

BY ADV. SRI.LAL GEORGE

RESPONDENTS: PETITIONERS AND RESPONDENTS 1 & 2 IN OP(MV) 57/2003:
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1. K.A.JOSE, KALATHIPARAMBIL HOUSE, UNIVERSITY PO, COLONY ROAD, KALAMASSERY, COCHIN-23, NOW RESIDING AT KALATHIPARAMBIL HOUSE, ILLICKAL P.O., KOTTAYAM.

2. SUSAN JOSE, W/O.K.A.JOSE, KALATHIPARAMBIL HOUSE, UNIVERSITY P.O., COLONY ROAD, KALAMASSERY, COCHIN-23, NOW RESIDING AT KALATHIPARAMBIL HOUSE, ILLICKAL P.O., KOTTAYAM.

3. DYNA ELISUBA JOSE,D/O.K.A.JOSE, (MAJORITY RECORDED AS PER ORDER DT.19/02/2007), KALATHIPARAMBIL HOUSE, UNIVESITY P.O., COLONY ROAD KALAMASSERY, COCHIN-23, NOW RESIDING AT KALATHIPARAMBIL HOUSE, ILLICKAL P.O., KOTTAYAM.

**4. JAIPAL, S/O.DIVYANATHAN,
NO.261/RM COLONY, (DRIVER-KODAIKANAL CHRISTIAN COLLEGE), DINDIGUL, TAMIL NADU.**

5. THE PRINCIPAL, KODAIKANAL INTERNATIONAL SCHOOL, KODAIKANAL P.O., DINDIGUL DISTRICT, TAMIL NADU.

BY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 28/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.A.C.A.NO.1154 OF 2007 ()

Dated this the 28th day of June, 2007

J U D G M E N T

KOSHY,J.

Father, mother and minor sister of a 21 year old youngster filed application for compensation contending that accident occurred due to the negligence of the driver of the vehicle insured by the appellant Insurance company. They claimed a compensation of Rs.12,00,000/-. Out of which Rs.10,00,000/- was demanded for loss of dependency. The Tribunal awarded a total compensation of Rs.5,96,000/- and out of which Rs.5,40,000/- is granted for dependency. The main contention taken up by the Insurance company is that the Tribunal has taken 15 as the multiplier, that is, on the higher side. It is argued that Second schedule to be taken as the guideline but at the same time for fixing multiplier when a claim under Section 166, the court should always fix lower of the multiplier considering the age of the victim and claimants.

There is no dispute of the above proportion. The deceased was aged 21 years. As per the Second schedule, 17 is the multiplier. Father was 48, mother was 44 and the sister was minor. If we go by the age of mother and sister, 15 is the apt multiplier going by the Second Schedule and considering the totality of circumstances we feel that no grounds are made out by the appellant for altering the multiplier taken by the Tribunal. The motor accident claim victim was a Post Graduate student in Foreign Trade. Since he was not employed at that time we have to assess the notional income. Considering the circumstances, educational qualifications etc. of the victim as he was studying in Post Graduate in Foreign Trade and there was high prospect in getting employment in executive posts in foreign countries or in business sector etc. and considering the present salary that is earned by the executives, even though higher sum could have been earned, Tribunal fixed Rs.3,000/- as the monthly dependency. We see no ground to interfere in the same. Considering the educational qualification of the deceased, age of the deceased and claimants and totality of circumstances, we are of the

opinion that just and reasonable compensation was only awarded. Hence this appeal is dismissed.

J.B.KOSHY, JUDGE

K.P.BALACHANDRAN, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO. OF 2006 ()

J U D G M E N T

28th June, 2007